

REMARKS

Applicant has amended claims 38 and 44, and have cancelled claims 1-37 and 56-57, during prosecution of this patent application. Applicant is not conceding in this patent application that the subject matter encompassed by said amended and cancelled claims are not patentable over the art cited by the Examiner, since the claim amendments and cancellations are only for facilitating expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue the subject matter encompassed by said amended and cancelled claims, and to pursue other claims, in one or more continuations and/or divisional patent applications.

The Examiner objected to the specification, suggesting various changes to the specification. In response, Applicant has amended the specification in a manner that incorporates all of the Examiner's suggested various changes to the specification .

The Examiner objected to the oath, indicating that "356(a)" should be changed to "365(a)" in the sixth paragraph of the oath. In response, Applicant has amended the sixth paragraph of the oath to change "356(a)" to "365(a)".

The Examiner objected to claim 38, stating that *"line 7 of the claim should be amended to read "identifier, said M being at least N; and" "*. In response, Applicant has amended claim 38 to conform to the preceding suggestion by the Examiner.

The Examiner rejected claim 57 under 35 U.S.C. § 112, second paragraph.

The Examiner rejected claims 38-40, 42 and 56 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman et al. (US Patent No. 6,400,272) (hereinafter Holtzman) in view of Scheidt et al. (US Pre-Grant Publication No. 2002/0184509) (hereinafter Scheidt).

The Examiner rejected claim 41 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Devinney, Jr. (US Pre-Grant Publication 2003/0046083).

The Examiner rejected claim 43 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Frieden et al. (US Pre-Grant Publication No. 2003/0163446) (hereinafter Frieden).

The Examiner rejected claims 44, 50-55 and 57 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt, and further in view of Nerlikar (US Patent No. 5,629,981).

The Examiner rejected claim 45 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, and further in view of Laval (US Patent No. 6,173,209) (hereinafter Laval) and further in view of Ott (US Pre-Grant Publication No. US 2003/0052539).

The Examiner rejected claims 46-49 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, and further in view of Byford (US Patent No. 6,581,161).

Applicant respectfully traverses the § 112 and § 103 rejections with the following arguments.

35 U.S.C. § 112, Second Paragraph

The Examiner rejected claim 57 under 35 U.S.C. § 112, second paragraph.

Since claim 57 has been cancelled, the rejection of claim 57 under 35 U.S.C. § 112, second paragraph is moot.

35 U.S.C. § 103(a): Claims 38-40, 42 and 56

The Examiner rejected claims 38-40, 42 and 56 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman et al. (US Patent No. 6,400,272) (hereinafter Holtzman) in view of Scheidt et al. (US Pre-Grant Publication No. 2002/0184509) (hereinafter Scheidt).

Claims 38-40 and 42

Applicant respectfully contends that claim 38 is not unpatentable over Holtzman in view of Scheidt, because Holtzman in view of Scheidt does not teach or suggest each and every feature of claim 38.

For example, Holtzman in view of Scheidt does not teach or suggest the feature:

“scanning a user to read N Radio Frequency Identification (RFID) tags respectively embedded in N objects being carried by the user, each tag of the N tags comprising a tag identifier of said each tag, *said N being at least 2*;

comparing the N tags read by the RFID reader with M tags in a registered record of data, said registered record comprising a reference to the user, each tag of the M tags comprising a tag identifier, *said M being at least N*; and

permitting access by the user to a resource if said comparing has determined that the tag identifiers in the M tags comprise the tag identifiers in the N tags read by the RFID reader” (emphasis added).

Applicants respectfully contend that Holtzman in view of Scheidt does not disclose “said N being at least 2” and “said M being at least N” in the preceding feature of claim 38.

The Examiner argues: “Holtzman does not specifically teach the method of permitting access by a user to a resource if the N tags presented by the user is a subset of M tags in the record, where said M is at least N (N being atleast 2)... However, Scheidt teaches an invention where a user is permitted access to a resource based on a combination of RFID tokens (*paragraph [0013], lines 1-10*).... It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Holtzman to include access criteria in which a user is permitted access if the user is in possession of a plurality of tags which correspond to the record of Scheidt because it would provide a stronger user identification process than relying on one tag to permit access to a resource, as indicated by Scheidt (*paragraph [032], lines 8-10*).”

In response, Applicant respectfully contends that Scheidt does not disclose more than one RFID token for permitting access to a system. The Examiner cited Scheidt, Par. [0013], lines 1-10 which specifically recites the use of “token-based data” in combination with other factors for permitting access to a system, which does not identify more than one RFID token. The Examiner also cited Scheidt, Par. [0032], lines 8-10 which specifically recites the use of “a token” in combination with other factors for permitting access to a system, which very clearly identifies exactly one RFID token.

More specifically, Scheidt, Par. [0032], lines 11-12 recites: “The present invention provides a method of validating a user for access to a system based on at least two of these factors.” However only one of the factors is “a token” (Scheidt, Par. [0032], line 4) which is one token and not at least two tokens.

In summary, the Examiner has not cited any prior art that discloses the use of at least 2 RFID tags as required in the preceding feature of claim 38.

Based on the preceding arguments, Applicant respectfully maintains that claim 38 is not unpatentable over Holtzman in view of Scheidt, and that claim 38 is in condition for allowance. Since claims 39, 40 and 42 depend from claim 38, Applicant contends that claims 39, 40 and 42 are likewise in condition for allowance.

In addition with respect to claim 39, Holtzman in view of Scheidt does not disclose the feature: “wherein $M = N$ ”.

The Examiner argues: “Scheidt teaches using a combination of RFID tokens to authenticate a user requesting access to a resource. Merriam-Webster defines *a combination* as “any subset of a set considered without regard to order within the subset.” As such, Scheidt teaches access criteria comprising subsets of any size, including all M elements of a set of size M , or any subset thereof. In the former case, the presence of all of the tags in the registered record is necessary to permit access ($M = N$)”.

In response, Applicants assert that the Examiner is referring to any combination of the multiple factors delineated in Scheidt, Par. [0032]. However, the only factor of these multiple factors that is relevant to claim 39 is the factor of “a token” (Scheidt, Par. [0032], line 4) which is only one token and is therefore in violation of the requirement of “said N being at least 2”. Even if “a token” were instead “more than one token”, there still is no disclosure in Scheidt that the totality of such tokens identified in a record of data (M) is equal to the number of objects carried by the user (N).

Therefore, Holtzman in view of Scheidt does not disclose the preceding feature of claim 39.

In addition with respect to claim 40, Holtzman in view of Scheidt does not disclose the feature: “wherein M exceeds N”.

The Examiner argues: “Scheidt teaches using a combination of RFID tokens to authenticate a user requesting access to a resource. Merriam-Webster defines *a combination* as “any subset of a set considered without regard to order within the subset.” As such, Scheidt teaches access criteria comprising subsets of any size, including all M elements of a set of size M, or any subset thereof. In ... the latter, any subset thereof (or even a particular subset) would be a condition for access (M exceeds N)”.

In response, Applicants assert that the Examiner is referring to any combination of the multiple factors delineated in Scheidt, Par. [0032]. However, the only factor of these multiple factors that is relevant to claim 40 is the factor of “a token” (Scheidt, Par. [0032], line 4) which is only one token and is therefore in violation of the requirement of “said N being at least 2”. Even if “a token” were instead “more than one token”, there still is no disclosure in Scheidt that the totality of such tokens identified in a record of data (M) exceeds the number of objects carried by the user (N).

Therefore, Holtzman in view of Scheidt does not disclose the preceding feature of claim 40.

In addition with respect to claim 42, Holtzman in view of Scheidt does not disclose the feature: “providing a checksum mechanism for combining identification information in the N tag identifiers”.

The Examiner argues: “As per claim 42, Holtzman and Scheidt teach the method of claim 38, but do not specifically teach providing a checksum mechanism for identifying the N tag identifiers.... However, Scheidt further teaches combining identification information from a combination of user-provided factors (which may comprise token-based data) into one value, termed the Profile Key Encryption Key (PKEK). The process by which this value is generated is repeatable, and Scheidt teaches that there should be a way of verifying the integrity of the value upon regeneration (*paragraph [0033]*).... It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Holtzman further with that of Scheidt in order to provide a checksum mechanism for combining identification information in the N tag identifiers. One would have been motivated to do so as this would increase efficiency of the scanning and comparing means while also decreasing the likelihood of errors.... It should be noted that it is well known in the art that such a verification method could be done using a checksum mechanism.”

In response, Applicant notes that the Examiner has not identified any prior art that disclose use of a checksum for any purpose. Therefore, the Examiner has not established a *prima facie* case of obviousness in relation to claim 42.

Furthermore, Applicants respectfully challenge the Examiner’s contention that “it is well known in the art that such a verification method could be done using a checksum mechanism”. Applicant assert that the well-known use of a checksum mechanism is quite different than use of

“a checksum mechanism for combining identification information in the N tag identifiers” as required by the preceding feature of claim 42. See Modern Dictionary of Electronics (6th ed. 1997) which describes the following well-known use of a checksum: “A value which is the arithmetic sum of all the bytes in a program or a program segment”.

Therefore, Holtzman in view of Scheidt does not disclose the preceding feature of claim 42.

Claim 56

Since claim 56 has been cancelled, the rejection of claim 56 under 35 U.S.C. § 103(a) is moot.

35 U.S.C. § 103(a): Claim 41

The Examiner rejected claim 41 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Devinney, Jr. (US Pre-Grant Publication 2003/0046083).

Since claim 41 depends from claim 38, which Applicants have argued *supra* to not be unpatentable over Holtzman in view of Scheidt under 35 U.S.C. §103(a), Applicants maintain that claim 41 is likewise not unpatentable over Holtzman in view of Scheidt and further in view of Devinney, Jr. under 35 U.S.C. §103(a).

35 U.S.C. § 103(a): Claim 43

The Examiner rejected claim 43 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Frieden et al. (US Pre-Grant Publication No. 2003/0163446) (hereinafter Frieden).

Since claim 43 depends from claim 38, which Applicants have argued *supra* to not be unpatentable over Holtzman in view of Scheidt under 35 U.S.C. §103(a), Applicants maintain that claim 43 is likewise not unpatentable over Holtzman in view of Scheidt and further in view of Frieden under 35 U.S.C. §103(a).

35 U.S.C. § 103(a): Claims 44, 50-55 and 57

The Examiner rejected claims 44, 50-55 and 57 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt, and further in view of Nerlikar (US Patent No. 5,629,981).

Claims 44 and 50-55

Applicant respectfully contends that claim 44 is not unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, because Holtzman in view of Scheidt and further in view of Nerlikar does not teach or suggest each and every feature of claim 44. For example, Holtzman in view of Scheidt and further in view of Nerlikar does not teach or suggest... Based on the preceding arguments, Applicant respectfully maintains that claim 44 is not unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, and that claim 44 is in condition for allowance. Since claims 50-55 depend from claim 44, Applicant contends that claims 50-55 are likewise in condition for allowance.

Claim 57

Since claim 57 has been cancelled, the rejection of claim 57 under 35 U.S.C. § 103(a) is moot.

35 U.S.C. § 103(a): Claim 45

The Examiner rejected claim 45 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, and further in view of Laval (US Patent No. 6,173,209) (hereinafter Laval) and further in view of Ott (US Pre-Grant Publication No. US 2003/0052539).

35 U.S.C. § 103(a): Claims 46-49

The Examiner rejected claims 46-49 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Holtzman in view of Scheidt and further in view of Nerlikar, and further in view of Byford (US Patent No. 6,581,161).

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account 09-0457 (IBM).

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